

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RUSSELL F. WALKER,)
)
Plaintiff,)
)
v.) 1:07cv00099
)
WINDSTREAM COMMUNICATIONS,)
INC.,)
)
Defendant.)
)

ORDER ADOPTING MAGISTRATE JUDGE'S RECOMMENDATION

On July 23, 2007, Magistrate Judge Russell A. Eliason filed his Recommendation [Doc. # 18] that Defendant's motion to dismiss [Doc. # 8] be granted, Plaintiff's motion for a temporary restraining order [Doc. # 14] be denied as moot, and that judgment be entered dismissing this action with prejudice. On July 24, 2007, the parties were mailed notification of the Recommendation filing. Plaintiff Russell F. Walker timely filed an Objection to the Recommendation on July 30, 2007 [Doc. # 21]. Defendant Windstream Communications, Inc., filed a response on August 13, 2007 [Doc. # 23]. Having reviewed the objections *de novo*, the Magistrate Judge's recommendation that the original complaint is deficient is ADOPTED.

Since the filing of the Recommendation, the parties have filed additional motions, namely Plaintiff's motion for leave to file an amended complaint [Doc. #

22] and Defendant's motion to dismiss the proposed amended complaint [Doc. #
25.] These have been referred to Judge Eliason and the question of whether
judgment should be entered is not ripe.

This the day of November 21, 2007

/s/ N. Carlton Tilley, Jr.
United States District Judge